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COOLEY LLP

Attorneys for Defendant
 SoundBite Communications, Inc.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

RON SAGER, individually and on behalf of a
 class of similarly situated individuals,

Plaintiff,

v.

BANK OF AMERICA CORPORATION, a
 Delaware corporation, SOUNDBITE
 COMMUNICATIONS, INC., a Delaware
 corporation,

Defendants.

Case No. 12-CV-00197-RMW

STIPULATION TO STAY CASE ('QTFGT

Judge: Hon. Ronald Whyte

Date: n/a

Time: n/a

Courtroom: 6

Trial Date: Not yet set

Plaintiff Ron Sager ("Plaintiff") and Defendants Bank of America Corporation ("Bank of America") and SoundBite Communications, Inc. ("SoundBite") (collectively, "Defendants") pursuant to Federal Rule of Civil Procedure 7 and Civil Local Rule 7-12, hereby stipulate as follows:

WHEREAS, SoundBite has filed a petition with the Federal Communications Commission ("FCC") seeking a declaratory ruling that when a subscriber sends a text message choosing to opt-out of receiving future text messages, and a one-time immediate reply is sent back via text message confirming the opt-out request, that confirmation message is not a violation of the Telephone Consumer Protection Action ("TCPA") because (1) it falls within a grace period for acknowledging opt-out requests, and (2) it is not sent using an "automatic telephone dialing

1 system” (“SoundBite Petition”);

2 WHEREAS, Defendants have filed motions to stay this action pending the FCC’s ruling
3 on the SoundBite Petition (Dkt. Nos. 27, 28);

4 WHEREAS, another case involving similar claims under the TCPA was stayed on July
5 31, 2012 pending the FCC's ruling on the SoundBite Petition. *See Karayan v. GameStop Corp.,*
6 *et al.*, No. 3:12-cv-01555 (N.D. Tex.);

7 WHEREAS, the parties agree that an FCC ruling on the SoundBite Petition may resolve
8 legal issues relevant to this action or at least reduce the scope of litigation;

9 WHEREAS, the parties agree that it will serve the just, speedy, and inexpensive
10 determination of this matter, *see* Fed. R. Civ. P. 1, to stay this action until such time as the FCC
11 has issued a ruling on the SoundBite Petition.

12 NOW, THEREFORE, the parties hereby stipulate and agree as follows:

- 13 1. This action will be stayed until such time as the FCC has issued a ruling on the
14 SoundBite Petition;
- 15 2. Within fifteen (15) days of the FCC’s ruling on the SoundBite Petition, the parties will
16 inform the Court of the FCC’s ruling and, if necessary, propose a new schedule for the
17 filing of any amended complaint and response deadlines to the same;
- 18 3. Should the Court (1) enter an order denying this stipulation, or (2) not enter an order
19 on this stipulation prior to August 8, 2012, the parties agree that Defendants shall not
20 be required, and shall not waive any rights, arguments, or defenses by waiting to file
21 their reply briefs in support of their motions to stay until fifteen (15) days after the
22 Court enters an order ruling on this stipulation.

23 IT IS SO STIPULATED.

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1 Dated: August 3, 2012

EDELSON MCGUIRE, LLP
SEAN P. REIS

2
3 /s/ Sean P. Reis

4 Sean P. Reis
5 Attorneys for Plaintiff
Ron Sager

6 Dated: August 3, 2012

7 REED SMITH LLP
FELICIA YU

8
9 /s/ Janet M. Lee

10 Janet M. Lee
11 Attorneys for Defendant
Bank of America Corporation

12 Dated: August 3, 2012

13 COOLEY LLP
MICHAEL G. RHODES
MAZDA K. ANTIA

14
15 /s/ Mazda K. Antia

16 Mazda K. Antia
17 Attorneys for Defendant
SoundBite Communications, Inc.

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2 I hereby attest that concurrence in the filing of the document has been obtained from each
3 of the other signatories.

4
5 Dated: August 3, 2012

COOLEY LLP
MICHAEL G. RHODES
MAZDA K. ANTIA

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7
8 /s/ Mazda K. Antia

Mazda K. Antia
Attorneys for Defendant
SoundBite Communications, Inc.

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11 PURSUANT TO STIPULATION, IT IS SO ORDERED.

12 Dated: August 1, 2012

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Hon. Ronald M. Whyte
United States District Judge